IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

MISC.CIVIL APPLICATION No 2536 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

INDIRABEN D/O HARILAL JOITARAMPATEL

Versus

GHANSHYAMBHAI MANORBHAI PATEL

Appearance:

MR EE SAIYED for Petitioner

MR MC BAROT for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 01/02/2000

ORAL JUDGEMENT

#. Conciliations proceedings were held in the Chamber in the presence of the learned counsel for the petitioner and the respondent during lunch interval. Both husband and wife were present. Though the wife is ready to go

and live with the husband, husband - respondent is not ready to take her back to her matrimonial home. Thereafter arguments were heard in Court at length but on the request of the learned counsel for the respondent to make one more effort of compromise the order was not dictated and the matter was taken up for conciliation in the Chamber after 4.45 p.m., but this time the learned counsel for the respondent himself stated that there seems little chances of compromise between the parties at this stage. Hence, the matter is to be decided.

#. The petitioner by this petition under section 24 of the Civil Procedure Code, 1908 is praying for transfer of HMP No.33/99 from the file of the Civil Judge (S.D.), Kachchh - Bhuj to any court in Patan.

#. It is stated that on 3.3.1991 according to Hindu religion the marriage has been performed between the petitioner and the respondent in District Patan. As a result of this wedlock one female child was borne on 13.11.1996. The respondent filed this Hindu Marriage Petition at Kachchh - Bhuj for divorce. The petitioner stated that she is a young lady and a mother of kid of three years old. If, she regularly attends proceedings at Kachchh - Bhuj in the petition, anything may happen. She being a lady cannot trouble alone for more distance. She is in service and it is very difficult for her to go to Kachchh - Bhuj from Patan District a far place. Parents of the respondent are residing in District Patan.

#. It appears to be a case where the respondent has deliberately and purposely filed this petition at Kachchh - Bhuj, so this lady may be put to trouble. It is very difficult for a lady to have and undertake such a long journey. Moreover, she is in service and a mother of female child of three years age. In such matter, if we go by comparison the respondent may not have any more difficulties in case this petition is transferred to Patan. The respondent's parents are also residing in Patan District. He is a man and he can come easily to attend the case at Patan if the petition is transferred to Patan from Kachchh - Bhuj. Comparatively no prejudice will cause to the respondent. It is a divorce petition and in case it is allowed to continue at Kachchh - Bhuj this lady may be in manifold difficulties. There is all possibility that she may not be in a position to effectively defend herself in these proceedings. Otherwise also, marriage was soleminised in District Patan and they were also live together lastly in District Patan. The evidence whatever to be produced by both the parties is also to be from the District Patan and if we

go by this fact, it is also in the larger interest of both the parties that this Hindu Marriage Petition may be transferred to Patan District.

#. As a result of the aforesaid discussion, this Misc.Civil Application succeeds and the same is allowed. Hindu Marriage Petition No.33 of 1999 is transferred from the court of Civil Judge (Senior Division), Kachchh - Bhuj to the District Court, Mahesana. The District Judge, Mahesana is directed to assign this matter to any competent court functioning at Patan. Rule is made absolute accordingly with no order as to costs.

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(pathan)